

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEORGIA-PACIFIC CONSUMER
PRODUCTS, LP, et al.,

Plaintiffs,

Case No. 1:11cv483

v.

Hon. Robert J. Jonker

NCR CORPORATION, et al.,

Defendants.

ORDER

This is a CERCLA cost recovery and contribution action for costs associated with PCB contamination of the Kalamazoo River. Georgia-Pacific filed the action in the Eastern District of Wisconsin against NCR and International Paper in December of 2010. Judge Griesbach transferred the matter here under 28 USC 1404(a) by order dated May 10, 2011 (docket # 45). NCR has already filed its Answer (docket # 29). International Paper has not answered, but it has moved to dismiss the cost recovery claim (docket # 38), one of the two claims Georgia-Pacific has made against it. The motion does not challenge the balance of the Complaint.

The Motion to Dismiss the Fourth Cause of Action is **DENIED**. Even if International Paper's position is ultimately vindicated, and Georgia-Pacific is required to proceed, if at all, only in contribution under Section 113, the best time to make that call is later in the case after the record is more fully developed. It won't cost the parties anything extra to keep the cost recovery claim in the case pending development of a complete record. International Paper shall file its answer within 14 days. The Court will schedule an initial Rule 16 Conference by separate order.

ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

Dated: May 20, 2011

